

REMARKS

In an office action dated December 19, 2003, the Examiner rejected claims 1-20 under 35 U.S.C. §101 as directed to non-statutory subject matter; rejected claims 1-2 under 35 U.S.C. §102(b) as anticipated by “InterLotto launches first online scratch cards; Alpine Cash the latest game offering from popular Internet Lottery” (herein *Interlotto*); rejected claims 3-5, 7-8, and 10-12 under 35 U.S.C. §103(a) as unpatentable over *Interlotto*; rejected claims 6, 13-15, and 17-20 under 35 U.S.C. §103(a) as unpatentable over *Interlotto* in view of Torango (US 2003/00600279); and rejected claims 9 and 16 under 35 U.S.C. §103(a) as unpatentable over *Interlotto* in view of Ziarno (US 6,253,998).

Claims 10-20 have been cancelled, and the rejections thereof are moot. The remaining independent claim, claim 1, has been substantially amended to address the outstanding rejections, as discussed below. Additionally, new independent claims 21 and 28 have been presented. As amended, the claims are patentable.

Patentable Subject Matter

Claim 1 has been amended to recite concrete method steps performed by an apparatus, specifically an “automated gaming system”. As amended, claim 1 recites prompting a user in an automated gaming system in step (a), and receiving user input to an automated gaming system in steps (b) and (c). Step (c) further recites that the automated gaming system determines the result of the wager and gaming options specified by the user. Steps (d) and (e) recite that the automated gaming system automatically performs certain functions based on the previous user input and result of the gaming option. Thus, as amended, claim 1 recites a series of steps performed by a machine, the machine typically being some form of digital data processing apparatus. The machine specifically receives a user input, and produces an output which affects the user (i.e., automatically makes a contribution based on the user input and the result of the gaming option).

Accordingly, as amended, claim 1 recites statutory subject matter. Claims 2-9, dependent on claim 1, further refine the method performed by the automated gaming system of claim 1, and are likewise directed to statutory subject matter.

New independent claims 21 and 28 are directed to an automated gaming apparatus and a program product comprising executable instructions for execution in a processor of an automated gaming apparatus. Both claims recite that the apparatus receives certain input from a user, and produces an output affecting the user based on the input received and the result of a gaming activity. The claims therefore recite statutory subject matter under well established principles.

Prior Art

Claim 1 has been further amended to address the prior art rejection thereof. Specifically, amended claim 1 recites that (a) the pledge is an optional user input, (b) the pledge is taken from the user's winnings, and is contingent upon the result of the gaming option, and (c) the pledge is input before the user is presented with the result of the gaming option.¹ These features are not taught or suggested by the cited art.

As explained in applicants' specification, his invention is intended to increase charitable contributions by exploiting human psychology in a heretofore unexploited niche. People are more likely to contribute money when they feel that they have an abundance, but this feeling almost always dissipates over time. Additionally, people are more likely to contribute something which is not really theirs, and which, if they should acquire it at some future time, would only be a

¹ It is significant that the pledge be obtained before the user knows the result. But it is not necessarily the case that the pledge be obtained before the machine determines the result. In a machine which determines a result internally based on a random process, such as a "slot machine" simulated on a digital computing device, the software might well determine the result internally before it asks the user for the pledge. In this case, the result would simply be stored in some internal variable, inaccessible to the user.

windfall. Finally, applicant believes that most gamblers have faith in luck, and are likely to believe that their luck is improved if a portion of their winnings is pledged to charity. This belief can be reinforced by actually increasing the odds of winning if the gambler makes a pledge, as in an optional embodiment of the present invention

In general, charitable gambling is well known, and there are numerous schemes which involve gambling to raise money for charity. However, none of the known art exploits the particular market niche envisioned by applicant. In most existing schemes, the charitable organization derives a portion of the net proceeds of gambling. I.e, either the charity itself sponsors the gambling and takes 100% of the net proceeds, after expenses, or the gaming organization agrees to pay some fraction of the net proceeds to the charity, for public relations, legal or other reasons. All of these techniques have their utility, but they leave room for other, imaginative techniques, such as applicant's. Unlike existing techniques, applicant's technique exploits human psychology to obtain a voluntary donation from the gambler, which is not a precondition to playing the game. Furthermore, the donation comes out of the gambler's winnings, and therefore does not affect the profits of a for-profit casino.² Applicant envisions that his technique would be ideally suited to a for-profit casino, which, at no cost to itself, can raise money for charity and reap some of the collateral goodwill and favorable publicity by siphoning off a portion of the gamblers' winnings.

It is essential that this system be voluntary, i.e., it is optional with the gambler whether to make a particular pledge. If the pledge is mandatory, then in effect the payout from the game is being reduced. It is well known that casinos advertise their payout ratios to attract players, and a

² This is not strictly true where the gambler's odds of winning are increased by making the pledge. However, in a game such as slots, there are many ways to hide the actual increase in odds, so that this increase can be negligible. It is the psychological effect of the increase which is important. If it were necessary to maintain strict profit neutrality, the charity could return a small portion of its pledges to the casino to compensate for the alteration of odds.

casino which requires the donation of a portion of gambler winnings would have an unfavorable payout ratio vis-a-vis other casinos. By the same token, it is essential that the contribution come from the gambler's winnings, for if the charitable contribution came from the casino's net proceeds, then the casino's bottom line would be directly affected. Finally, it is essential that the pledge be made before the gambler knows the result, since he will be more disposed to make a pledge from money he doesn't yet have, and may furthermore believe he is more likely to obtain if he makes the pledge.

Amended claim 1 recites:

1. A method of automating contributions in a gaming system, said method comprising:
 - (a) prompting a user with a gaming option in an automated gaming system;
 - (b) enabling the *user to optionally pledge* a contribution to an organization, said *pledge being contingent on a result* of said gaming option, said pledge being input to said automated gaming system;
 - (c) permitting the user to make a wager and partake in the gaming option in said automated gaming system, said automated gaming system determining said result using said wager and gaming option;
 - (d) automatically presenting said result to said user from said automated gaming system, said step (d) being performed after said step (b); and
 - (e) automatically making the *contribution to the organization based on the pledge of step (b) and said result.* [emphasis added]

Turning to the *Interlotto* reference, it can be seen that essential elements is not present.

Interlotto appears to disclose a lottery, in which a portion of the net proceeds, which is not subject to control by the player, is donated to charity. Apparently, the players can vote to select a charity or charities to receive the money, but this is the extent of their control over the contribution.

Interlotto does not teach (a) that individual users make optional pledges, or (b) that the pledge is taken from the individual user's winnings and is contingent thereon. For these reasons, claim 1 as amended is not anticipated by *Interlotto*. Claims 21 and 28 contain similar limitations, and are similarly not anticipated.

Nor are the amended claims obvious over *Interlotto*, alone or in combination with other cited art. The cited art generally shows charitable gambling schemes in which portions of the net proceeds go to charity, but the net proceeds are the gambling organization's proceeds, not the gambler's. For the reasons explained above, applicant's invention exploits are heretofore unrecognized market niche in the area of charitable fundraising. A system of allowing the gambler to make a voluntary pledge from prospective winnings, the pledge being contingent on the gambler's winnings, before the gambler knows what the winnings are, is nowhere suggested by *Interlotto* or the other cited art.

In view of the foregoing, applicants submit that the claims are now in condition for allowance and respectfully request reconsideration and allowance of all claims. In addition, the Examiner is encouraged to contact applicants' attorney by telephone if there are outstanding issues left to be resolved to place this case in condition for allowance.

Respectfully submitted,

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